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FRATERNAL LIFE INSURANCE
With Special Reference to Kansas

being

A thesis presented to the Graduate Faculty
of the Fort Hays Kansas State College in
partial fulfillment of the requirements for
the Degree of Master of Science

by

Dollie B. Thomas, B. S.
Fort Hays Kansas State College

Date

January 18, 1949

Approved

Leonard T. Thompson
Major Professor

F. S. Ackers
Chairman Graduate Council

DEDICATION

to Leo

who so many times has said

"Education is also a form of insurance."

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CHAPTER I

INTRODUCTION

THE SIGNIFICANCE OF LIFE INSURANCE

Insurance touches the lives of a very large percentage of the American population. If the life insurance contracts in force in the United States at the present time were equally distributed among all of the people of the Nation, it would provide more than one thousand dollars protection on the life of every individual.¹ Like our national wealth and national income, life insurance is not distributed equally among all of the people; a few people hold several contracts and many people have none. Many of those who are not insured themselves are beneficiaries of policies written on the lives of others and are, therefore, interested in the subject of insurance. It is difficult to visualize that only 150 years ago the total number of life insurance policies in the United States, exclusive of annuity contracts, did not exceed one hundred.²

Although the principle of fraternalism, or helping a brother in time of trouble or need, goes back to the very

1. "Life Insurance Aggregates," Spectator, CLVI (September, 1948), 34-35.

2. Solomon S. Huebner, Life Insurance (New York: D. Appleton-Century Co., Inc., [c 1923]), p. 4.

beginning of man's existence, it was not until about 1840 that life insurance began to be accepted as moral and not "a sinful speculation in human life."³

Man, as well as all forms of animal life, is possessed with an urge or a will to live. Nevertheless, he is exposed to many serious hazards that make it impossible for him to foretell or prevent their occurrence. To protect himself against a large or complete financial loss when misfortune strikes, he bears a small portion of the losses of other individuals who reciprocate if, and when, his loss occurs. The individual transfers his risk to an insurance company by the purchase of a contract of insurance. The company, in turn, transfers its risk by spreading the probable losses over a large number of persons. This number, however, must be large enough that the number of claims expected, in a given period of time, can be estimated with some degree of accuracy. Insurance today involves the accumulation of large sums of money to be held in reserve over long periods of time, and at the same time, it is payable "on demand" at the maturity of an insurance contract. To protect these long-term investors and contract holders, it is necessary that certain legal supervision be given by the various branches of government.

3. Joseph B. Maclean, Life Insurance (New York: McGraw-Hill Book Co., Inc., 1945), p. 511.

It is the purpose of this thesis to present a discussion of the history and development of the fraternal beneficiary societies, which make up one of the few distinct types of organizations that offer protection from financial loss resulting from physical disability or premature death. Chapter II will give a brief resume of the age-old principle of fraternalism, or brotherhood, from pre-historic times to the present. A general history of fraternal life insurance organizations in the United States will make up Chapter III. A study of the fraternal insurance law of the State of Kansas, including state regulation and some of the major court decisions, will be discussed in Chapter IV. Chapter V will give some of the present-day benefits, other than cash insurance protection, that are provided by the fraternal benefit societies.

It is not the purpose of the author to influence public opinion on the subject of life insurance, but merely to present the facts as they are found to be recorded by reliable insurance sources. Such public records as the Laws of Kansas, Reports of the Supreme Court of the State of Kansas, and the Annual Reports of the Commissioner of Insurance of the State of Kansas have been helpful. Magazines and newspapers published by the fraternal benefit societies doing business in this State have also been consulted.

The "old-line," legal reserve life insurance companies offer insurance protection of another type. This plan of insurance will be discussed incidentally and only as its significance has direct bearing on the fraternal plan. There is also a great amount of insurance conducted by the United States Government on the lives of those who have given military service in the time of war, and a small amount of assessment insurance in effect today. Neither of the last two types will be included as a part of this study.

CHAPTER II

THE BACKGROUND OF FRATERNALISM

Present-day lodges, societies, associations, clubs, fraternities, and other organized groups are based on the fraternal principle of brotherhood which can be traced back to the very beginning of man's existence. Over one-half of the adult population of modern America are members of one or several societies where they are able to act and dream of the mystic days of yore.

In 1927, Charles Merz wrote that, of the sixty million adult people in the United States, about thirty million of them were members of one or more of the 800 different secret orders existing at that time. He said,

. . . half of us have a watch-charm and a counter-sign. We are the world's greatest joiners.

. . . We join the Gideons and Rotarians [etc.] . . . to say nothing of almost innumerable country clubs and luncheon groups and motor clubs and discussion groups for the prevention of this and the achievement of the other. All this is above and beyond the 30 million. The 30 million includes only members of those bona fide secret orders with a ritual . . . It includes members of vast organizations like the Woodmen and the Knights of Pythias and the Odd Fellows and the Daughters of Rebekah, each of which carries on its own roster more than half a million members. . . . It includes organizations like the Elks and the Foresters and the Modern Order of White Mahatmas. . . .¹

1. Charles Merz, "Sweet Land of Secrecy," Harper's Magazine, CLIV (February, 1927), 329.

The picture in America today is little different from that of twenty years ago. The 1947 World Almanac lists nearly one thousand "Associations and Societies in the United States."² These include learned societies, professional associations, religious bodies, fraternal organizations and patriotic societies, as well as many business, labor, farm, consumer, and other groups. The same reference gives over two hundred and fifty college and professional fraternities and sororities, honorary and recognition societies, each bearing Greek letter names.³ The oldest Greek letter fraternity, Phi Beta Kappa, dates back to 1776, when it was first organized at William and Mary College,⁴ but more than two-thirds of these two hundred and fifty Greek letter societies have been organized since 1900. Not all of these groups are secret societies but they are backed by the same principle of mutual aid to their members.

Once or twice each month the members of these secret orders climb a flight of stairs and confront a door guarded by some High Lord or Lady Something-or-Other. After a series of knocks and pauses, the countersign is exchanged with a uniformed guard and the door swings open to admit

2. World Almanac (New York: New York World Telegram, 1947), pp. 352-366.

3. Ibid., pp. 340-344.

4. Ibid., p. 340.

them to a never-never land where they cease to be citizens but become knights, monks, priests, vikings, princes, or other imitative personalities out of the past. Some groups take on animal characteristics and become Elks, Beavers, Serpents, Goats, or Eagles. Long passages of ritual are often memorized by the members and repeated back in initiation and routine ceremonies. Ritualistic procedure prevails at all of the meetings, which are held behind closed doors.

Many associations or societies are not necessarily secret orders but are basically fraternal in nature. From the definition of the words, fraternal, which according to Webster, means "pertaining to or involving brethren," and fraternity meaning a "body of men associated for their common interest, business or pleasure," an attempt is made to understand the significance of some of the institutions in our present society. Many institutions built on this principle of brotherhood play an important and influential role in our American way of life. To the young man at college, his fraternity is almost a sacred institution. To the work-ing man or woman, the ties of fraternal associations provide many satisfactions that serve to further the realization of human wishes. The ties of brotherhood become deeply embedded in the hearts of the individuals who participate in organizations seeking to further their own individual interests and the interests of their particular group.

Many groups are organized for social reasons, alone; others for business purposes; and still others for the insurance features which are characteristic of many lodge groups, and which is the point most frequently stressed.

A fraternal society in modern America is described, according to the Encyclopedia Americana, as follows:

A fraternal society is a brotherhood of members bound together by its fraternal bond of union. It is organized and carried on for the sole benefit of its members and their beneficiaries. It operates on the lodge system, and uses a ritual in the meetings of its lodges and the initiation of its new members. It has a representative form of government, in which the management is responsible to the members for the faithful performance of their duties. It is governed by its constitution and laws enacted by the representatives of its members, and it furnishes its members, in all the States, with protection in case of death, and in many of the States with protection in case of disability resulting from illness, accident and old age after the expectancy of life, and in some States with still more liberal benefits.⁵

The principle of brotherhood dates far back into prehistoric times when groups formed types of cooperatives joined by the bonds of sympathy, of common pleasure, of common sorrow, or of need. Blood brotherhood is a very primitive custom. Families joined together to protect against their common enemies. Primitive peoples bound themselves together for many reasons: to cement existing bonds of comradeship, for commercial purposes such as the exchange of meat or vegetable oils, for the purposes of protection while

5. Encyclopedia Americana, 1941 edition, XII, 24.

traveling in a strange country, or to circumvent justice and protect against the personal and political aims of the tribe chiefs.

In the history of the Keltic peoples, for a period of about 600 years, ending 52 B. C., when the united Gauls surrendered to Julius Caesar, there is to be found a record of a very powerful fraternity. Wigmore describes this fraternity as a

very unique professional class which combined the functions of priest, magician, teacher, physician, historian, bard, and jurist. . . . their knowledge was transmitted solely by memory, not by writing;

. . . The Druids' power lay, not in physical or political force, but in their influence as priests of religion and magic; . . . The judgments of the Druids were enforced by their own magic powers; they excommunicated the disobedient, and their solemn curse was the deepest dread of the Kelts.

The Druids, as priests, presided at the sacrifices; and in Pagan Gaul at least there were human sacrifices. And this practice led to their political downfall. . . . [The Roman rulers] a few years after the Conquest, in the first century A. D., not only suppressed the religion of the Druids,⁶ but exterminated the entire fraternity itself.

The suppression of the fraternity in one land did not completely abolish it, for the same author goes on to say that the Druids sprang up again in Wales and Ireland before

6. John H. Wigmore, A Panorama of the World's Legal Systems (Washington, D. C.: Washington Law Book Co., [c 1936]), pp. 665-669.

800 A. D., and the precedents and rules, which they had handed down from memory, were reduced to writing.⁷

Many united groups have been suppressed by rulers or governments but it has never had the effect of destroying fraternalism or even checking its growth for very long periods of time. The following quotation illustrates this point.

Rome had her trade unions, and her religious contrafraternities devoted to the service of her gods, and her social clubs, and was compelled to legislate for their regulation. Contributions to a common fund for the assistance or burial of their needy members was then as now a familiar feature. The downfall of Rome scarcely interrupts the story. Phoenix-like, they arose out of the ashes of her empire when her distant provinces developed into the industrial states of modern Europe.⁸

The practice of collecting fees, or dues, from the membership is not a modern characteristic, but it is one that always accompanies fraternal association.

. . . The Greeks, when their civilization dominated the world, had societies of a semi-religious nature which rendered financial aid in time of sickness, and paid burial benefits. Similarly, in the days of the Roman Empire, there were societies that collected regular dues. The funds thus created were used to provide suitable funerals for members,⁹ and also for periodical feasts and extravagances.

7. Ibid., p. 691.

8. Lester R. Zartman, Yale Readings in Insurance, Life Insurance (New Haven, Connecticut: Yale University Press, 1909), pp. 134-135. (Reprinted with additions from "Yale Insurance Lectures, Life," by Walter S. Nichols. Pp. 162-183.)

9. National Fraternal Congress of America, Fraternal Life Insurance (Indianapolis, Indiana: Insurance Research and Review Service, [c 1942]), p. 18.

Many groups received their fraternal satisfaction from their efforts toward serving others. Examples of this type are found in the following quotation:

[Fraternities were] religious societies for the pious practices and benevolent objects. They were often formed during the Middle Ages, from a desire of imitating the holy orders. From the Twelfth to the Fifteenth Century nothing was considered more meritorious than to form and belong to such orders. The laity, who did not wish to pronounce the monastic views, entered into associations in order to gain some of the advantages of the religious even in their worldly life. These societies were first formed without any ecclesiastical interference, and on this account many of them, which did not obtain or did not seek the acknowledgment of the Church, had the appearance of separatists, which subjected them to the charge of heresy. The pious fraternals which were formed under the direction of the Church or were acknowledged by it were either required by their rules to afford assistance to travelers, to the unfortunate, the distressed, the sick and the deserted, on account of the inefficiency of the police, and the want of institutions for the poor,¹⁰ or to perform certain acts of penitence and devotion.

The Fratres Pontifices, in Tuscany, established themselves on the banks of the Arno River to assist travelers in crossing. Other societies built bridges and hospitals, or kept roads in repair. The Brothers of the Christian Schools were "a fraternity founded near the end of the Seventeenth Century, . . . they have been of great service in the cause of elementary and secondary education in France, and other European countries."¹¹

10. Encyclopedia Americana, 1941 edition, XII, 24.

11. Loc. cit.

The Inns of Court, in England, contributed to the development of the Anglican Legal System. According to the description given by Wigmore:

. . . These inns had begun early in the 1300's; they were the guilds of lawyers that grew up around the courts at London. Only four now survive--Lincoln's Inn, Gray's Inn, Inner Temple, and Middle Temple; the last two were so called from occupying the old quarters of the Knights Templars. But there were fourteen or more in all, at the height of their activity, and there were probably some two thousand members in all, each year.¹²

The Knights Templars, referred to above, were a religious and military order, established in 1148 A. D., for the protection of pilgrims and the Holy Sepulcher. Their name is associated with the fact that they occupied quarters next to Solomon's Temple.¹³

A brotherly association of a little different type is also found in English history. A brief description is given here:

In towns and wealthier villages, many guilds--not merely the craft guilds--helped to organize pageantry and merriment. On every possible occasion, national or local, men rejoiced in solemn processions, of which the Lord Mayor's Show and the King's opening of Parliament are today among the few survivors. In those times, before it was easy to invest one's savings, much money was spent on splendour. . . . The guilds, from which priests were generally excluded, represented the growing intelligence and initiative of the laity. But they were

12. Wigmore, op. cit., pp. 1064-1065.

13. Merriam A. Webster, Webster's Collegiate Dictionary (Springfield, Massachusetts: G. & C. Merriam Co., 1941), p. 1026.

permeated, as was most of life and thought, by religious ideas. . . . Men combining in a gild for a benevolent, a useful, or even a convivial purpose liked to give a religious tinge to their proceedings and to invoke a saint's blessing on their association.

Besides the maintenance of a chantry, a school, an almshouse or a bridge, one of the chief activities of gilds was the staging of Miracle Plays . . . Such plays were very popular in the Fifteenth Century, and taught versions of the Bible stories, and many legends besides, in an age when the Bible as a book was known to few.¹⁴

The guilds of England became too powerful to please the reigning families and their property was confiscated by such rulers as Henry VIII and Edward VI, in the Sixteenth Century. Under Queen Elizabeth's rule, no one could pledge allegiance to his town, his club, or his guild. His supreme devotion was demanded by his Queen.

Under the guise of "friendly societies," however, fraternalism sprang up again and many of these orders still exist today.

By 1801, there were more than five thousand friendly societies operating in England and registered under the Friendly Societies Act of 1793. Obviously, most of them were very small organizations, serving residents of limited geographical areas. It is interesting that approximately fifty societies formed before 1800 are still doing a prosperous business in England, many of them in cooperation with the government "social" insurance schemes. Three of the English societies, two of them of Huguenot origin, date respectively to 1703, 1708, and 1712. A yet older society, founded in 1687, was in existence until a few years ago.

14. G. M. Trevelyan, English Social History (London, New York, Toronto: Longmans, Green & Co., 1942), pp. 88-89.

Scottish registers reveal even older cases. The date of the earliest society--the Incorporators of Carters in Leith--is given as 1555, and two other societies are shown to have been founded in 1634 and 1670. On the Continent, the idea of the friendly or fraternal society seems quite ancient, and formation of some societies in England in the latter part of the Seventeenth Century was the work of refugee Huguenots. As respects the "insurance" feature, it is worth noting that the Continental practice tended to benefits "in kind," e. g., medical, hospital, dental treatment, etc., and especially to the inclusion of the dependents of the insured in the scope of the benefits.¹⁵

Walter S. Nichols, writing in the early 1900's, gives further information about the British friendly societies and their work.

As the power of the guilds declined they were succeeded by the modern British friendly societies, from which our own have been largely patterned. Members chiefly from the working class united for mutual aid in sickness and for funeral benefits, through contributions to a common fund. They recognized the distinctly insurance character of their work and sought to frame scales of moneyed contributions which would be adequate. But they knew little of the principles of insurance, and their frequent disastrous failures at last attracted the attention of the British Parliament. . . . Attempted legal reforms were strongly resisted for a while by the members, and it has required nearly a century of legislation to place the friendly society system of Great Britain on the comparatively sound basis where it now rests.¹⁶

Fraternalism came to the United States with the Colonial settlers. Freemasonry was brought into New Jersey as early as 1728, and had established itself in all of the

15. Charles D. Dunne, "Fraternal Insurance," Kansas Workman, LXVI (January, 1948), 1.

16. Zartman (quoting Nichols), op. cit., pp. 134-135.

original Colonies before the Revolution.¹⁷ The Improved Order of Red Men was founded in 1771.¹⁸ "In its first patchwork form Odd Fellowship came from England early in the 1800's."¹⁹ These lodges offered benefits "in kind" and did not then, or do not now, offer any plan of life insurance to the membership. They did, however, establish homes for their aged members and homes for orphans. Areson and Hopkirk say that

the first fraternal order orphanage [in the United States] was founded in California by the Masons in 1850. . . The next date in fraternal circles is that of the Jewish Orphan Asylum of the Independent Order of B'Nai B'rith founded in New Orleans in 1855.²⁰

These early orders were followed by numerous new societies, some patterned after those of the past and others one hundred per cent native and strictly modern. The start was usually modest; sometimes it was elaborately planned to compete against all similar orders. Many of them failed, but the competition never ceased because new ones continuously sprang up.

17. Merz, op. cit., p. 329.

18. Dunne, loc. cit.

19. Merz, op. cit., p. 330.

20. C. W. Areson and H. W. Hopkirk, "Child Welfare Programs of Churches and Fraternal Orders," Annals of the American Academy of Political and Social Science, CXXI (September, 1925), 85.

The Ancient Order of United Workmen, organized by John Jordan Upchurch, in 1868,²¹ was the first fraternal benefit society in the United States to include a plan of life insurance providing a cash payment at the time of the member's death. This incorporation of fraternalism and life insurance has had a significant role in the lives of millions of American people during the past eighty years.

21. Charles K. Knight, Advanced Life Insurance (New York: John Wiley & Sons, Inc., [c 1926]), p. 370.

CHAPTER III

FRATERNAL INSURANCE IN THE UNITED STATES

A brief survey of life insurance in the United States prior to the time fraternal insurance was first written, will serve as a background and will assist in a better understanding of some of the problems confronting all underwriters.

The early systems of life insurance were developed in Great Britain; however, few of the British forms were readily accepted in the United States. The greatest growth in the life insurance business has been witnessed since the Civil War. The first corporation organized in this country for the purpose of paying benefits on the occurrence of death was the Presbyterian Ministers' Fund, (1759) which provided for grants to the families of the ministers of the Presbyterian Church in the event of the minister's death.¹ This corporation, in an improved form, has survived to the present time. During the remainder of the Eighteenth Century, several insurance companies were organized, but few policies were written, and these were written only for short periods, or terms; they were not whole-life contracts. The first commercial life insurance company in

1. Joseph B. Maclean, Life Insurance (New York: McGraw-Hill Book Co., Inc., 1945), pp. 506-507.

the United States was the Pennsylvania Company, which was established in 1812.²

Several other companies were organized during the early part of the Nineteenth Century. These were joint-stock or "proprietary" companies, and there were a few mixed companies, but no mutual companies came into existence until the 1840's. Dawson describes the early insurance business, as follows:

Prior to 1835, what life insurance there was in the United States was purveyed either by ultra-venturesome and not very sound British companies or by the Massachusetts State Hospital Life Insurance Company (a stock corporation using its profits in part to maintain a hospital), the New York Life and Trust Company, the Girard Annuity and Trust Company of Philadelphia and two or three other similar companies which supplied life insurance at very high rates, as a "side line."

These concerns did so little life insurance business that in 1835 one of them successfully opposed the chartering of a new stock company in New York on the ground, based upon its experience, that there was not enough business to divide.³

Maclean attributes the slow beginnings of life insurance to the fact that there was no public knowledge or demand for it, the country was in an undeveloped condition,

2. Charles K. Knight, Advanced Life Insurance (New York: John Wiley & Sons, Inc., [c 1926]), p. 2.

3. M. M. Dawson, "Mutualization of Life Insurance Companies," Annals of the American Academy of Political and Social Science, LXX (March, 1917), 64-65.

the arbitrary premium rates were very high, and the terms of the policies were very severe.⁴

The first company to operate on the mutual plan was the Mutual Life Insurance Company of New York, chartered in 1842.⁵ Its charter required that the actual business of issuing policies should not be started until the company had applications for at least \$500,000 of insurance.

The principal features of the company which distinguished it from the stock and mixed companies were that the policyholders were entitled to share in the management of the company through the election of directors and that all profits belonged to the policyholders.⁶

This new plan started by the Mutual Life Insurance Company of New York, inaugurated a period of participation and "from this time down to the close of the Civil War, practically all of the life insurance was written on a participating basis."⁷

The foolish prejudice that life insurance was "a sinful speculation in human life" was beginning to disappear about 1840,⁸ and this fact, together with the education of the public in the benefits of insurance protection and the

4. Maclean, op. cit., p. 508.

5. Ibid., p. 512.

6. Loc. cit.

7. Knight, op. cit., p. 2.

8. Maclean, op. cit. p. 511.

more reasonable rates that were being offered by the mutual companies, stimulated expansion of the business. Between 1840 and 1850, many companies were organized, nearly all of them on the mutual plan. Maclean says, "Many of these were organized on unsound lines, and, . . . many soon disappeared."⁹ A few of the companies started about this time, however, have succeeded and "have been growing rapidly until the larger 'legal-reserve' or 'old-line' companies now rank among our largest financial institutions."¹⁰ They have gone through periods of trial and error, to be sure; they have faced wars, epidemics, and economic depressions, as well as governmental investigations and legislation, but they have gained the confidence of the people and the sale of insurance has increased substantially and consistently for over a century. This position of high esteem was not gained, however, without having left a record of financial loss to many policyholders and investors. According to one author:

. . . of the seventy-one old-line life companies reporting to the New York Insurance Department in 1870, forty-six ceased doing business by the year 1880, . . . only four of these companies reinsured in companies that remained solvent, and only ten of the companies failing paid their liabilities in full. None of these failures were due to an excessive death rate; they were due to excessive expenses,

9. Ibid., p. 513.

10. Knight, op. cit., p. 3.

losses on investments and inability to maintain the statutory reserve.¹¹

Stevens, writing in 1900, also gives a picture of the failures of "old-line" companies about this time:

In a published list of 89 legal reserve life insurance companies reported as having failed in the last fifty years, 7 of them went down between 1849 and 1860, . . . In the following decade--that in which the Civil War took place--there were reported 14 similar failures, . . . and between 1870 and 1880, a period which produced a panic and five years of depression in business, there were 64 reported failures in legal reserve life insurance, with assets amounting to \$87,498,000.¹²

Inefficiency and ignorance of the proper methods of premium and reserve calculations, laxity in the selection of risks, dishonesty of the personnel, and other practices of an unsound nature, naturally, shook the confidence of the public and led many people to doubt the advisability of risking an investment for benefits to be received far in the future.

It was conditions such as these, plus a desire for cheaper insurance for the workingman, that prompted John Jordan Upchurch to incorporate life insurance with fraternalism. Mr. Upchurch was employed in the shops of the Atlantic and Great Western Railroad and was a member of a

11. Olaf H. Johnson, Conversion of the Fraternal Society into an Old Line Company [Madison, Wisconsin: Democrat Printing Co.] 1926, p. 8. (Quoted from "A Review of Life Insurance," by John A. McCall, 1898).

12. Albert C. Stevens, "Fraternal Insurance," Review of Reviews, XXI (January, 1900), 60.

fraternal organization known as the League of Friendship, Mechanical Order of the Sun, and "as this league passed out of existence the Ancient Order of United Workmen was organized under plans proposed by Mr. Upchurch,"¹³ in Meadville, Pennsylvania, in 1868. Several authors, including Stevens,¹⁴ say that Mr. Upchurch was also a Freemason. A strong spirit of fraternalism is revealed in the constitution of this new order, which included as one of its objectives:

To unite all mechanics and mechanic's helpers and those regularly employed in any branch of the mechanical arts so that they may form one united body for the defense and protection of their interests against all encroachments and the elevation of labor to that standard it is justly entitled to.¹⁵

The by-laws of the organization also provided for a ritual and a lodge system similar to other fraternal societies of the day, but little was said about life insurance benefits, except a provision included in the constitution which provided that, when the membership numbered one thousand, an insurance feature should be created and a policy issued, "securing at the death of a member insured not less than \$500, to be paid to his lawful heirs."¹⁶

13. Frank B. Mallett, "A. O. U. W. Founded by J. J. Upchurch," Kansas Workman, LVIII (April, 1940), 1.

14. Stevens, op. cit., p. 61.

15. Mallett, loc. cit.

16. Knight, op. cit., p. 370. (Quoting Article XVII of the Constitution of the order.)

About a year after the society was organized, in October, 1869, the by-laws were amended and an "Insurance Article" was included which

provided that each member should contribute \$1 to an insurance fund of the subordinate lodge and that upon the death of a member the funds of all the subordinate lodges should be used to defray funeral expenses, the remainder of them, if any, to be "properly and judiciously applied for the benefit of the family or heirs of the deceased." The entire benefit was to equal in dollars the number of members who had contributed, . . . Then as soon as a death occurred, another \$1 was due from each remaining member in order to prepare for the next death.¹⁷

The first payment of such a benefit, and the very beginning of fraternal insurance in the United States, was made by the Ancient Order of United Workmen, to the widow of Warren P. Lawson of Jamestown, New York, in 1871. The fund amounted to \$265, which indicated that there were 265 contributing members.¹⁸ As the membership of the organization grew, it was agreed to limit the amount of payment on any one death claim to \$2000.

The business of the society was handled by the members themselves. They were elected for the various duties by democratic vote, the "post-mortem assessments" were thought to be sufficient to pay the death claims, no profits were to be accumulated, and the members "carried the reserve in their pockets."

17. Ibid., pp. 370-371.

18. Mallett, loc. cit.

This plan for greater privileges and opportunities for the workingman, with the provision for life insurance protection for his family at a rate he could afford to pay, had a special appeal to those who had never been financially able to buy insurance of any kind before that time. Many long-established fraternal organizations amended their charters to include the insurance feature. New societies were created by the members of the same race, the same nationality, the same religion, the same trade or profession. Stevens indicates how rapidly they sprang up when he says that, between 1868 and 1879, thirty-four assessment benefit secret societies made their appearance. He also gives the following figures for the next two decades: Between 1880 and 1890, the birth of thirty-six similar organizations was recorded; and between 1890 and 1899, seventy-four were formed or became mutual beneficiary orders.¹⁹

The term "old-line" became attached to the plans of insurance that were in use prior to the inauguration of fraternal assessment insurance,²⁰ and has been generally used by insurance authors when reference is made to level premium or legal reserve companies, but not to fraternal insurance.

19. Stevens, op. cit., pp. 61-62.

20. H. A. Lachner, Metropolitan Life Insurance Co., New York, Personal Correspondence, April 6, 1948.

The reasons for the rapid growth of fraternal insurance at that time, according to Knight, were: (1) numerous failures among the "old-line" companies in the 1870's, (2) low rates offered by the fraternal, (3) the disappointment of many "old-line" policyholders when the extravagant dividend estimates failed to materialize, and (4) the widely-spread impression that reserves were unnecessary and likely to be mismanaged.²¹

These societies provided entertainment in the form of lodge meetings and this attraction encouraged membership for the social benefits. The organization usually consisted of one parent society, with its constitution and by-laws, and under it were numerous subordinate local branch societies, termed "lodges." These local societies were created by the parent, from which they received their charters and right to exist. They were governed by its constitution and laws which it laid down. In all questions of dispute the parent society had final jurisdiction. The local lodge, while it had separate existence as a society itself, remained subject to the parent society, of which it was a part. The parent society was sometimes known as the supreme lodge, and it was made up of representatives from the grand lodges, each with its local lodges. The membership of the

21. Knight, op. cit., p. 371.

society as a whole was thus made up of the members of the various local lodges.

The government was purely democratic, every member was entitled to a vote in the local society and thus a voice in the selection of the rulers and in making the laws for the whole. Initiation rituals and ceremonies were a common feature. Funds for the insurance feature were collected by the local lodges and turned over to the officers of the parent society, by whom the insurance business of the whole society was managed. Sick benefits, or benefits "in kind," were collected and managed by the local lodges. Funds for such activities were usually collected as "dues" or initiation fees. The fraternal features of the societies, apart from the insurance work, were chiefly confined to the local lodges, where the individual members met for business and social purposes, and where the spirit of fraternity was fostered.

These societies were sometimes organized under the corporate charters granted by the states and sometimes they were voluntary associations. Most states now have laws that apply to benevolent societies which include insurance features, but they usually retain their character as benevolent societies of the non-profit nature. Each society is governed by its own constitution and by-laws, which are changeable by vote of the members, but the courts usually

endeavor to enforce these laws which the societies have made for themselves.

Some of the theories incorporated in the management of the insurance feature have proved unworkable and have been abandoned or modified. The theory that the members could "keep the reserve in their pockets," and bring forth one dollar at the death of each member, thus eliminating the accumulation of funds, except those absolutely needed, and discourage a temptation to extravagance as well as a tax on the members, soon proved impractical. It was found that it would be better to levy assessments at regular intervals in order to have the funds available when it was necessary to pay benefits; also, that some consideration should be given to the age of the member at the time of entry. When a group was first formed, it would consist of the young or middleaged members. As the society grew older, the average age of the members increased because it was not always possible to get young members, or "new blood."

The hope of maintaining a low "average age" of the group, by the inflow of "new blood," did not work out in practice as it was first assumed. Membership was by selection and the older people were not encouraged to join; however, they were usually anxious to have this protection, and the younger members were not long in discovering that they were contributing more than their share to the death losses,

which were chiefly among the old. The younger members could drop their membership and organize, or join, societies with younger members. The average age of those that were left continued to increase and the losses and assessments grew heavier. New recruits could not be induced to go into a group of aged and sick members. Many societies, unable to collect their assessments, were forced out of existence. The person who dropped out of one fraternity to join another, where the assessments would not be so heavy, had nothing to lose for "he carried his reserve in his pocket," and, in the early orders, the rate of payment did not increase with age.

The low cost of life insurance was the strength and then the weakness of fraternal insurance. They were forced to admit that "their hearts were bigger than their heads." There was a long struggle for adequate rates and a permanent, scientific basis of business operation. This was true of both the fraternal societies and the "old-line" companies. The "old-line" companies did not have a reliable table of mortality until the American Experience Table was published in 1868,²² and even then, it was not put into general use. Both types of underwriters proceeded by the trial and error method. They consistently studied the problems that arose

22. Solomon S. Huebner, Life Insurance (New York: D. Appleton-Century Co., Inc., c 1923), p. 149.

and tried to follow any plan that would correct the situation. After the flat assessment plan proved unsuccessful, the fraternalists adopted what was called a "graded assessment" plan.

Here assessments were graded according to the age of entry, varying, for example, from \$.60 at age twenty to \$2.50 at age sixty. It was, however, again the purpose of the society to collect just enough to pay current losses, and the rates were intended to represent approximately the mortality at the several ages. Moreover, the rates were not changed and a member who entered the society at age twenty-five would continue to pay the rate for that age during subsequent years.²³

This plan also worked a hardship on the younger members and continued to be increasingly unsatisfactory as the group grew older.

Other methods of figuring payments were the step-rate plan, which provided for an increase at five- or ten-year intervals as the age increased. A modified step-rate plan was chosen by some groups. This was very similar to the ordinary step-rate plan except that, by paying a little more (15 or 30 cents per month) the increase would cease at age sixty and the payments would remain constant for the remainder of life. A natural premium plan was also used, but it proved to be too heavy for the older members to carry. The natural premium was an amount just sufficient to carry the insurance from one premium date to the next and it

23. Ibid., pp. 443-444.

advanced each year as the age increased; it was essentially the same as the yearly-renewable term contract. The natural premium increased very rapidly at the more advanced ages and became almost prohibitive for most people.

Within two decades after the first insurance features were incorporated with fraternalism, the delusions concerning the possibility of maintaining a low average age, protection at low cost without the accumulation of reserves, and other unsound practices had been so deeply realized that it appeared certain the fraternalists could not endure without the establishment of more scientific principles. Aside from that, they had encountered their share of inefficient, dishonest leaders. They had also been imitated by other organizations attempting to write insurance on the assessment plan, many of which failed because of graft and dishonesty, as well as unscientific procedures. The fraternal orders were severely criticized and suffered by the loss of members and ultimate failure on the part of many. In 1886, at Washington, D. C., representatives from twelve different fraternal benefit societies organized the National Fraternal Congress.²⁴ This was considered a step forward; it helped the societies to realize the importance of establishing reserve funds from which claims could be paid

24. National Fraternal Congress of America, Fraternal Life Insurance (Indianapolis, Indiana: Insurance Research and Review Service, [c 1942]), p. 24.

promptly, and which would provide for emergencies. A few attempts had been made in this direction, when, according to Knight,

The yellow-fever epidemic of 1878 and 1879 led the A. O. U. W. to provide for the establishment of a "special relief" fund in 1880. The Independent Order of Foresters also made provisions for a "reserve" fund at an early date, . . .²⁵

One of the major purposes of the National Fraternal Congress was to protect the "legitimate" fraternal societies from the numerous fraudulent assessment insurance organizations that were operating "under the garb and cloak of fraternity." They were also interested in steering any legislation the states might desire to pass. Heretofore, any legislation proposed had been quickly defeated as a plot led by the "old-line" companies to force fraternalists out of the insurance business. The fraternal and benevolent character of the orders, seeking to protect the workingman, made it impractical to propose any legislation against them. About one-third of the voters, including politicians, were members of some society, and, for a legislator to support a bill proposing to control their activities and "thus alienate a large portion of his constituents was virtually considered political suicide."²⁶ In 1888, Massachusetts passed an act "defining fraternal societies and providing for a

25. Knight, op. cit., pp. 374-375.

26. Ibid., pp. 374.

report of their membership, operation, and financial transactions."²⁷ This was the beginning of statutory legislation and state regulation.

The fraternal societies soon realized that they needed the protection of the state laws and, in 1892, the National Fraternal Congress drafted the Uniform Bill and recommended it to the various state legislatures for enactment.²⁸ This bill, which was passed by many states, defined a fraternal benefit society as one having a lodge system, with ritualistic form of work and a representative government, exempted fraternal from the existing insurance laws of the states and provided a few minor regulations, but did not require reserve funds.

The National Fraternal Congress Committee on Statistics and Good of the Orders, in its report of 1895, stated:

. . . It is indispensable to recognize the Law of Mortality as the governing factor. . . . The rate fixed for life at the age of entry is common to nearly all the fraternal orders. Our experience demonstrates that it is faulty in theory, unsound in practice and should be remedied, and this can be accomplished by increasing the rate with increasing age or by so adjusting rates as to establish a fund that shall equalize the cost throughout life, or in other words, establish a Reserve. . . . Loading the rate at age of entry to minimize the cost of advancing years is the old-line plan of the reserve. The establishment of such a fund has, until within a year or two, been generally condemned by the

27. Loc. cit.

28. National Fraternal Congress of America, op. cit., p. 25.

fraternal orders, not for the reason that it is not of itself good, but that it has been improperly administered and made a means of gravest abuse.²⁹

They further recommended that a table of mortality be worked out and calculations for premiums be "of a fixed annual amount payable by installment, of which a certain per cent, with its increment of interest, will form a reserve fund."³⁰ In 1897, an amendment was added to the Uniform Bill permitting a fraternal society to "create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution and by-laws."³¹ A committee was appointed to work out a table of mortality on which premium and reserve calculations could be based. The National Fraternal Congress Table of Mortality was adopted in 1898,³² and from that time on, those fraternal societies that operated on a sound basis began to use either the new table or the "old-line" American Experience Table.

As far as premium rates and reserves were concerned, the fraternal orders began to take on characteristics of the "old-line" companies about 1900, but in other respects they remained decidedly different. The type of insurance contract issued by these societies permitted them to remain

29. Knight, op. cit., pp. 375-376.

30. Ibid., p. 376.

31. Ibid., p. 374.

32. Maclean, op. cit., p. 413.

theoretically solvent at all times. In the case of "old-line" companies, the policyholders are like the creditors of any corporation organized for profit; they are protected by state laws governing contracts, security of investments, and the solvency of corporations. The "old-line" policy is a rigid document setting forth the terms in detail, the premiums are fixed and, after a certain period of time it becomes a "unilateral contract," or a "closed contract," that is, it cannot be changed or voided by the company, except for nonpayment of premiums. On the other hand, the fraternal societies issued, and still do, a "certificate of membership," or an "open contract," which is described by Nichols, as follows:

. . . The agreement between the society and its members is not a policy or business contract as in the commercial life insurance company, but is embraced in a certificate of membership in which the member agrees to comply with the laws and regulations of the society then or thereafter in force. The general agreement is supplemented by the statements in his application. The benefits themselves are prescribed by the laws of the society and the claim of the member is by virtue of his membership. He has no vested property rights in the society until the claim has actually matured. A beneficiary can be designated only within the prescribed relationships; . . .³³

The constitution and by-laws, as previously mentioned, could be changed by a vote of the members, and the amount

33. Walter S. Nichols, "Fraternal Insurance in the United States: Its Origin, Development, Character, and Existing Status," Annals of the American Academy of Political and Social Science, LXX (March, 1917), 120-121.

which the certificate promised to pay could be reduced by the society's inability to pay, or additional assessments could be levied to make up the deficiency. The conditions which would make an ordinary life insurance company commercially insolvent, and lead to its closing, might simply cause increased assessments or reduced benefits to the members of a fraternal society. Theoretically, then, they could not be insolvent because they had the ability to vote themselves out of insolvency.

The National Fraternal Congress, having worked out rates on a scientific and safe basis, and realizing that conditions of actuarial solvency were necessary, if the societies could survive, recommended that the states pass legislation requiring "all new societies. . . to charge rates not less than the net rates on the basis of the National Fraternal Congress Table and 4 per cent."³⁴ Such a proposal, naturally, met stiff opposition from the new societies which would be required to collect higher premiums to maintain solvency, while the older societies could go on collecting their usual and inadequate rates. In protest, the "younger societies formed the Associated Fraternities of America, dubbed the proposed legislation the 'Force Bill,'"³⁵ and opposed the National Fraternal Congress on all forms of

34. Knight, op. cit., p. 379.

35. Loc. cit.

legislation that would require the collection of increased rates. The two groups, although sharply divided on one issue, were working together in the defense and advancement of fraternalism as an institution.

After about ten years these two associations cooperated to the extent of recommending the Mobile Bill to the State Insurance Commissioners' National Convention, in 1910. The Mobile Bill was adopted by several states, and although it had been proposed by the fraternal societies, it required them to improve their degree of solvency at a rate faster than was practicable. After further conferences between the fraternal societies and the insurance commissioners, the New York Conference Bill was proposed. This bill "modified the Mobile Bill in its objectionable respects, and became, broadly speaking, the general fraternal insurance law of the land."³⁶ It permitted those societies not 100 per cent actuarially solvent to remain in business, with certain requirements and restrictions. It also settled the major points of difference between the two conflicting associations and, in 1913, they joined together as the National Fraternal Congress of America,³⁷ which still exists today.

The various bills mentioned here have not all been enacted by the state legislatures. Each state has regulated

36. National Fraternal Congress of America, op. cit., p. 27.

37. Loc. cit.

fraternal benefit societies at a time, and in the manner, that it chose. Most states included legislation of some kind before 1900. The insurance laws of one state, the State of Kansas, as they apply to fraternal benefit societies, will be discussed in the following chapter.

This chapter has attempted to develop the history of the fraternal benefit societies that have included life insurance as a function of their organizations. Their problems were many. The numerous failures among these societies, and the errors in their management and methods of procedure, have called forth much criticism of the whole system. Despite these difficulties, it must be remembered that they have furnished temporary protection to millions of families and have distributed a great deal of money to the beneficiaries of the common man, who, without this cheap insurance privilege, might have left his family penniless.

CHAPTER IV

RELATING TO THE KANSAS LAW GOVERNING FRATERNAL BENEFIT SOCIETIES

Within ten years after Kansas became a State, a law was enacted which provided for the creation of an insurance department.¹ Fraternal insurance in the United States was less than three years old at that time. It had appeared first in Pennsylvania in 1868,² but had not developed to the extent that any specific regulation was necessary. As late as 1880, companies organized on the cooperative plan were excepted from the provisions of the Law of 1871.³ The law of 1885⁴ provided for the organization and control of mutual life insurance associations but excepted from its operation an association "under the supervision of a grand or supreme lodge," which referred only to secret associations, such as Freemasons, Odd Fellows, and the like, and not to mutual aid associations doing business in the mode used by mutual life insurance companies.⁵

1. Kansas, Session Laws 1871, Ch. 93.

2. Charles K. Knight, Advanced Life Insurance (New York: John Wiley & Sons, Inc., [c 1926]), p. 370.

3. State v. Bankers' & Merchants' Mutual Ben. Ass'n., 23 Kan. 355 (1880).

4. Kansas, Session Laws 1885, Ch. 131, Sec. 30.

5. State v. Nat'l. Ass'n. of Farmers & Mechanics Mutual Aid Ass'n., 35 Kan. 51 (1886).

Fraternal insurance societies were becoming increasingly popular, in Kansas, by the early 1890's but they were exempt from the Kansas insurance laws by the following section:

This act shall not apply to any association of religious or secret societies now existing or under the supervision of a grand or supreme lodge, nor to any class of mechanics, express, telegraph, or railroad employees formed for the mutual benefit of the members thereof and their families, exclusively, nor to the Scandinavian Mutual Aid Association of Galesburg.⁶

In 1895, George T. Anthony, Superintendent of Insurance, in his annual report, under the title of "Benevolent Insurance," made the following statement:

Under this attractive and deceptive title is found disguised the most heartless and worthless of all pretenses to insure against accident and death. Through an unfortunate omission, not an enactment of law, these associations find legal shield and gather a certain official respectability which makes ⁷ them a real peril, . . . to an over-confiding people.

He further stated that their exemption from the laws governing insurance has been taken advantage of by a multitude of men who "blossom suddenly into titled lords of benevolent insurance," and that many of these organizations are "without a thread of security."⁸ He recommended that the laws of the state be analyzed and corrected to protect the legitimate societies and eliminate the others.

6. Session Laws 1893, Ch. 101, Sec. 1.

7. Kansas, Department of Insurance, Twenty-fifth Annual Report, 1895, p. 15.

8. Ibid., p. 16.

Webb McNall, Superintendent of Insurance in 1897, had this to say about fraternal insurance regulation:

There seems to be a general belief that any organization can come into this state to transact business without coming through the Insurance Department, provided the same are labeled "Secret Societies," and that they are required to report to no one. . . .⁹

He referred to the Act of 1893, previously quoted, and said that it was

intended to foster and encourage all legitimate secret fraternal beneficiary organizations then in existence or under the control of a grand or supreme lodge. This state has a large number of legitimate organizations of this kind. Some of them have paid to the widows and orphans of deceased members millions of dollars. They meet every obligation. . . . These legitimate organizations cannot compete with frauds and fakes.¹⁰

Many of the fraternal societies operating at this time were beginning to realize the inadequacy of the rates they were collecting and were gradually making adjustments toward the more nearly adequate rates. Such changes took years of time to effect. Criticism was directed, not against these societies, but against the organization of additional societies seeking to operate under plans that had already proved unworkable. In the annual report of 1898, McNall continued his discussion of these societies, as follows:

9. Kansas, Department of Insurance, Twenty-seventh Annual Report, 1897, p. 3.

10. Ibid., pp. 3-4.

Societies attempt to come into the state, and a great many of them are in the state at this time, which might properly be called "wildcats," and we have no adequate law to reach them. They make promises in their literature entirely impossible to fulfil; they offer insurance cheaper than any reliable institution transacting business in the state; they take hundreds of thousands of dollars annually out of the state; they pay no losses except for a short time when they start in, and the officers receive large salaries. In fact, all the money that comes in goes for salaries. . . .¹¹

He also describes another type of fake fraternal society that insures only members of certain organizations, and which "hitch themselves onto these organizations without the authority of the parent order, the parent order never having recognized them."¹² As a solution to the problem, and, in order to protect the legitimate societies that were paying their losses and maintaining honest, economic administrations, he recommended that all such societies be supervised by the insurance department, and that the department provide for an examination of their principles and their ability to live up to their contracts. Such matters, he thought, should be investigated before the state grants permission for them to be licensed. Such laws had been recommended by the National Fraternal Congress and many states had already enacted regulations of this kind.

In 1898, legislation was passed by the Kansas legislature which defined fraternal benefit societies, provided

11. Kansas, Department of Insurance, Twenty-eighth Annual Report, 1898, p. xxxvii.

12. Ibid., p. xxxviii.

for their formation or admission to the state, required them to register with the insurance department, and a few other minor regulations,¹³ but they still remained exempt from most of the laws governing insurance companies.¹⁴ These societies were non-profit organizations and they were given a different classification from the regular "old-line" insurance companies operating for profit.

Within a year after the passage of the 1898 law, thirty-four fraternal benefit societies had registered with the insurance department and received certificates of authority to operate under the law.¹⁵ The next year, forty-six reported.¹⁶ This did not mean, however, that all such organizations had complied with the law. Those who feared bankruptcy, or thought that they might soon disband, did not register until they were forced to do so. Prior to the enactment of this law, there was no official record of these societies or their activities.

Fraternal Benefit societies are non-profit organizations, and the state insurance laws disclose a legislative

13. Session Laws 1898, (Special Session), Ch. 23.

14. Session Laws 1893, Ch. 101, Sec. 1.

15. Kansas, Department of Insurance, Twenty-ninth Annual Report, 1899, p. 7.

16. Kansas, Department of Insurance, Thirtieth Annual Report, 1900, p. vii.

intent to place them in a class by themselves; also, to make them amenable to certain conditions, and subject them to regulatory powers and supervision different from those of insurance companies in general.¹⁷ Nevertheless, the constitutions of the societies organized before 1898 have been treated as charters under the act, in so far as they relate to the same subjects, and the societies are controlled by the Act of 1898.¹⁸

From time to time, since the Act of 1898, there have been revisions in the laws governing these societies; sections have been repealed and others added, as well as a judiciary record established by hundreds of court decisions.

In the following pages, an attempt will be made to interpret and show the legal development of several points of the Kansas insurance law as it applies to fraternal benefit societies operating in the state.

The definition of a fraternal benefit society, as it stands in the Kansas law at the present time, is almost identical with the definition established by the laws of 1898. The present definition reads:

A fraternal benefit society is hereby declared to be such a corporation, society, or voluntary association of individuals, formed or organized into a lodge system with ritualistic form of work, and

17. Fidelity Life Ass'n., v. Hobbs, 161 Kan. 163 (1946).

18. Kirkpatrick v. Abrahams, 98 Kan. 685 (1916).

shall be carried on for the sole benefit of its members and their beneficiaries, and not for profit.¹⁹

Fraternal benefit societies, as defined above are excluded from the definition of "insurance companies" under the general provisions of the insurance laws, and nothing in the present law applies to them, unless they are expressly designated.²⁰

Provisions for the formation of a fraternal benefit society are set out in detail in the insurance laws, and a new society is authorized to do business when all of these procedures have been completed and the incorporators have satisfied the insurance commissioner

that there have been obtained bona fide applications for membership and insurance. . . from at least five hundred applicants, and that a benefit fund has been established, and cash deposited therein to an amount at least equal to five times the amount of the highest certificate to be issued by the society, and the proposed by-laws, benefit certificate and application. . . are found to comply with the requirements of this code.²¹

All fraternal benefit societies operating in the state pay an admission fee of twenty-five dollars for the examination of their charter and other documents. They also pay an annual fee of twenty-five dollars for the filing of

19. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 701.

20. Ibid., Ch. 40, Secs. 201-202.

21. Ibid., Ch. 40, Sec. 702.

the annual statement and renewal of the certificate of authority.²²

Every fraternal benefit society has a representative form of government and provides its own constitution and by-laws, which are subject to change by the vote of its members. Copies of the constitution and by-laws must be filed with the insurance department and certified by the insurance commissioner²³ and all amendments of, or additions to these must be reported to the commissioner.²⁴ These societies may include in their rules and regulations any provisions they desire, as long as they are not inconsistent with the constitutions and/or the statutes of the state or of the United States.

The constitution and by-laws of the society include its purpose and plan of organization, the method of conducting business, provisions for meetings and the establishment of subordinate branches or lodges, methods of amending its constitution and by-laws, and other details of business operation. The law requires that the election of officers be held at least quadrennially.²⁵

A person uniting with a fraternal benefit society is deemed to know the association's laws relating to the steps

22. Ibid., Ch. 40, Sec. 252C.

23. Ibid., Ch. 40, Sec. 702.

24. Ibid., Ch. 40, Sec. 708.

25. Ibid., Ch. 40, Sec. 702.

necessary to become a member and to have assented to the requirements when he joins it,²⁶ and is also bound by the rules of the association governing membership rights.²⁷

Under the representative form of government, each member has a voice in it and he must comply with the vote of the majority. However, a member's agreement to a by-law carries with it a reservation that the society will enact only those by-laws that are reasonably necessary to carry out the purposes of the society.²⁸ No absolute test can be laid down to determine whether or not a provision is reasonable. It involves, to some extent, a question of the facts depending upon the circumstances of the particular case.

Where a member agrees to be governed by the laws of the society, both existing at the time the contract was entered into and those subsequently enacted, he is bound by reasonable amendments changing benefits²⁹ unless the society

26. Leavitt v. Internat'l. Brotherhood of Boiler-makers, et. al., 131 Kan. 495 (1930).

27. Leavitt v. Internat'l. Brotherhood of Boiler-makers, et. al., 131 Kan. 495 (1930); Koresic v. Grand Carniolian Slovenian Catholic Union of U. S. A., 138 Kan. 261 (1933).

28. Miller v. Nat'l. Council K. & L. of Security, 69 Kan. 234 (1904); Knights of Maccabees v. Nelson, 77 Kan. 629 (1908); Moore v. Life & Annuity Ass'n., 93 Kan. 398 (1915) 95 Kan. 591, second rehearing denied, 96 Kan. 397; Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916); Wichita Council No. 120 of Sec. Ben. Ass'n. v. Sec. Ben. Ass'n., 138 Kan. 841 (1933).

29. Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916); Williams v. Ins. Union, 107 Kan. 214 (1920); Dey v. K. & L. of Security, 113 Kan. 86 (1923).

has waived enforcement of the amendment where changes were necessary to make the by-laws correspond with the state laws.³⁰ A society may amend its constitution and by-laws and exact increased premiums from members, if needed for the discharge of its functional obligations, provided the increase is not unreasonable nor discriminatory and is necessary to carry out the purposes of the organization.³¹

A member has the right to resort to the courts, and conflicts between provisions of the laws of the society will be construed favorably to the members, or to a subordinate council, and against the supreme body.³² A society cannot enact a by-law giving its national executive committee authority to suspend a subordinate council or dissolve its charter without filing charges and giving notice and hearing thereon.³³

30. Kirk v. Frat. Aid Ass'n., 95 Kan. 707 (1915); Williams v. Ins. Union, 107 Kan. 214 (1920).

31. Miller v. Nat'l Council, K. & L. of Security, 69 Kan. 234 (1904); Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916); Roper v. Columbian Circle, 113 Kan. 280 (1923); Dey v. K. & L. of Security, 113 Kan. 86 (1923); A. O. U. W. v. Hobbs, 136 Kan. 708 (1933).

32. Tucker v. Kirkpatrick, 106 Kan. 881 (1920) rehearing denied 107 Kan. 541; Wichita Council No. 120 of Sec. Ben. Ass'n. v. Sec. Ben. Ass'n., 138 Kan. 841 (1933); Lawson v. Brotherhood of Amer. Yoemen, 138 Kan. 248 (1933); Green v. Royal Neighbors of Amer., 146 Kan. 571 (1937).

33. Tucker v. Kirkpatrick, 106 Kan. 881 (1920), rehearing denied 107 Kan. 541; Wichita Council No. 120 of Sec. Ben. Ass'n., v. Sec. Ben. Ass'n., 138 Kan. 841 (1933).

As long as alterations, if intended to operate retrospectively, do not impair pre-existing contracts or interfere with vested rights, and are reasonable, they enter into and become a part of those contracts, and are binding on the society, its members and their beneficiaries.³⁴ If the society has reserved the right to make alterations in its constitution and by-laws and the members expressly agree to be bound by existing laws, as well as such that may be afterwards enacted, they are bound thereby.³⁵

In other words, the courts of the state will protect the members from being subjected to such by-laws of the society that appear to be unnecessary, unreasonable, or which unjustly deprive a member of vested rights.³⁶ On certain occasions, a holder of a certificate has made sufficient payments, according to his contract, to entitle him to a paid-up certificate, and it has been held that a change in the rules and regulations of the society could not

34. Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916); Ellis v. Frat. Aid Union, 108 Kan. 819 (1921).

35. Miller v. Nat'l. Council of K. & L. of Security, 69 Kan. 234 (1904); Kirk v. Frat. Aid Ass'n., 95 Kan. 707 (1915); Messenheimer v. Frat. Aid Union, 103 Kan. 552 (1918); Koresic v. Grand Carniolian Slov. Catholic Union of U. S. A., 138 Kan. 261 (1933).

36. Hart v. Life & Annuity Ass'n., 86 Kan. 318 (1912); Miller v. Tuttle, 73 P. 88 (1903) this case was not reported by the Kansas Reporter, but for the rehearing on it see Miller v. Nat'l. Council of K. & L. of Security, 69 Kan. 234 (1904); Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916).

completely deprive him of his interest in this right.³⁷ In one case, Hart v. Life & Annuity Association,³⁸ the member was not notified of an increase in assessment rates until eighteen months after he had completed his portion of the contract by making all payments necessary to receive a paid-up certificate. In a suit, it was held that he should be granted a paid-up certificate. In another case, Uhl v. Life & Annuity Association³⁹ the member had the option of taking a paid-up certificate at the end of any year after the third year of his contract. When the society discovered the plan unworkable, amended its by-laws, and notified him of greatly increased payments, the court ruled that he could not be deprived of the option of taking a paid-up contract commensurate with the reserve his payments had accumulated. In view of these decisions, fully paid up certificates are not affected by a change in the rules and regulations of the society.

As a rule, provisions of the contract of insurance will be liberally construed in favor of the insured and

37. Bass v. Life & Annuity Ass'n., 96 Kan. 205 (1915), judgment affirmed on rehearing 96 Kan. 398; Hart v. Life & Annuity Ass'n., 86 Kan. 318 (1912); Moore v. Life & Annuity Ass'n., 93 Kan. 398 (1915), 95 Kan. 591, second rehearing denied 96 Kan. 397; Uhl v. Life & Annuity Ass'n., 97 Kan. 422 (1916).

38. 86 Kan. 318 (1912).

39. 97 Kan. 422 (1916).

against the insurer in contracts between benefit societies and their members,⁴⁰ and, especially, where the terms are obscure or ambiguous, the courts will adopt that meaning most favorable to the member or beneficiary.⁴¹ But this rule does not apply when the language of the contract is clear or sufficiently certain to express the intent of the parties.⁴²

Fraternal benefit societies provide cash benefits in case of death, and some societies include provisions for benefits in case of sickness, temporary or permanent disability resulting from sickness, accident, or old age. Disability payments, however, cannot legally begin until after the member is seventy years of age,⁴³ and then, only if he is disabled.⁴⁴ Educational, benevolent, and charitable institutions may be established, operated and maintained for the benefit of the members and their families.

40. Tucker v. Kirkpatrick, 106 Kan. 881 (1920), rehearing denied 107 Kan. 541.

41. Grand Lodge, A. O. U. W. v. Smith, 76 Kan. 509 (1907); Ellis v. Frat. Aid Union, 108 Kan. 819 (1921).

42. Grand Lodge, A. O. U. W. v. Crandall, 80 Kan. 332 (1909); Koresic v. Grand Carniolian Slov. Catholic Union of U. S. A., 138 Kan. 261 (1933).

43. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 704.

44. Kirk v. Frat. Aid Ass'n., 95 Kan. 707 (1915); State v. Grand Lodge, A. O. U. W., 97 Kan. 585 (1916); Mes-senheimer v. Frat. Aid Union, 103 Kan. 552 (1918).

Funds for the payment of any of these benefits, and for the expenses of the society, are derived from assessments, premiums, and dues paid by the members. A reserve or emergency fund may be created in accordance with the society's constitution and by-laws⁴⁵ and, if such fund equals the reserve required by the American Experience Table, or the National Fraternal Congress Table, with an interest assumption of not more than four per cent per annum in either case, or an equal amount, the society may grant extended paid-up protection and withdrawal equities on such certificates as are specifically included in such a reserve fund, but no certificate holder can claim more from the fund than his assessments have caused to be accumulated therein.⁴⁶

The contract of insurance entered into between a beneficiary society and its members is generally evidenced by a certificate of insurance, instead of a policy. This certificate may be a very simple instrument or it may be a detailed document. Whatever form it takes, and whether or not the application is a part of the contract, both the application form and the certificate of insurance form must be approved by the state insurance commissioner.⁴⁷

45. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 704.

46. Ibid., Ch. 40, Sec. 705.

47. Ibid., Ch. 40, Sec. 702.

The fraternal benefit certificate is an "open contract;" it is subject to the constitution and by-laws of the issuing society, and, so far as it goes, it is the measure of the rights of all parties.

It has been held by the courts that a fraternal benefit society cannot issue a level-premium certificate, or policy, in the state of Kansas.⁴⁸ Many societies do issue certificates which provide for the establishment of reserves equivalent to those of the "old-line" insurance companies, with reserves and premiums figured on the level-premium plan; nevertheless, the contract remains "open" and the society has the privilege of increasing the premium payments, if it is necessary in order to carry out the purposes of the society. The reasoning of the court on this point, in 1933, is as follows:

Under the statutory structure of a fraternal benefit society it has power to amend its constitution and by-laws and exact such premiums, dues, and assessments from its members as will enable it to live and function according to the benevolent purposes for which it is created; and such society cannot, by contract, disable itself from exercising such power.⁴⁹

This case came up when the benefit society had issued a writ of mandamus to force the insurance commissioner to approve a form of benefit certificate based on the level-premium plan. Such a policy form would have permitted the

48. A. O. U. W. of Kanass v. Hobbs, 136 Kan. 708 (1933).

49. Loc. cit.

society to collect premiums at an unchangeable rate; these premiums could not have been increased during the life of the contract. The form was not approved because of the reason given above.

When insurance was first incorporated with fraternalism, it was intended, primarily, as a protection to the member's immediate family and his dependents. It has been characteristic of the constitutions and by-laws of these societies to designate who may be beneficiaries and when the rights become vested. When the fraternal insurance law was first enacted in Kansas, it stated that "payment of death benefits shall be to the families, heirs, blood relatives, affianced husband or affianced wife of or to persons dependent upon the member."⁵⁰ In addition to the statutory requirements, many societies further restricted the classes of beneficiaries, as they have the right to do, in their own by-laws.

The statutory law relating to beneficiaries was not changed until 1917, at which time it was made more specific and "confined" the payment of death benefits to "wife, husband, relative by blood to the fourth degree ascending or descending,"⁵¹ and to certain relatives by marriage or adoption as were designated by the statutes. This law also

50. Session Laws 1898, (Special Session), Ch. 23, Sec. 1.

51. Session Laws 1917, Ch. 208, Sec. 1.

provided that an incorporated, charitable institution could be made beneficiary; and that the member, within the statutory restrictions, could change his beneficiary from time to time in accordance with the rules and regulations of the society, and that no beneficiary could have a vested interest in the benefit until it became due and payable upon the death of the member.⁵²

The statutes of 1931 provided that, in addition to the requirements included in the 1917 law,

if the member has no wife, husband or children, then such member may designate as beneficiary, direct or in trust, any person or persons, entity, or interest or the member's estate as may be permitted by the laws of the society. . . .⁵³

The statutes were not materially changed again on this point until 1943, when the more liberal law permitted that any member "may direct any benefit to be paid to his estate or to such person or persons, entity, or interests, as may be permitted by the laws of the society governing beneficiaries."⁵⁴

The development of the statutes, as outlined by these citations, reflects the trend of the choice of beneficiaries from certain classes of relatives, to specifically enumerated

52. Loc. cit.

53. Kansas, Session Laws 1931, Ch. 205, Sec. 1.

54. Kansas, Session Laws 1943, Ch. 184, Sec. 1.

relatives or charitable institutions, and, in the more recent legislation, the choice of a beneficiary is essentially left to the member and the rules and regulations of the society. The rules of the society, which vary in the different orders, have, at all times, been a part of the member's contract, in addition to the statutory requirements. In the absence of any provision in the constitution and by-laws, or an agreement between the parties, as to the adjustment of controversies, an action may be maintained in the courts of the state, but the tribunals of the societies are usually sought before a recourse is taken to the courts.

The courts of the state have been called upon to settle cases of conflict between the societies and the beneficiaries, between individuals claiming as beneficiaries, and between the state and the societies. Many cases have been brought to the Kansas Supreme Court and stand as judiciary record for future citation.

Brief sketches of the essence of several of these cases are given here to illustrate the opinions of the courts, at different times and under the various statutes, toward the settlement of conflicts and disputes. It must be remembered that the statutory law changed from time to time, and is now very liberal on the point of who may be a beneficiary; however, the constitutions and by-laws of the various societies are, and always have been, left to the discretion of the societies and their members. This fact

makes possible many kinds of rules and regulations. The opinions of the courts, even though the statute operating at the time of the decision may have been changed, are often cited in cases involving the interpretation of the society's constitution and by-laws.

The insured usually has the right to name and to change the beneficiary, in accordance with the rules and regulations governing such action; however, unless he properly exercises this privilege, he has no interest in the certificate and the rules of the society may provide where the funds are to go after his death.⁵⁵

Prior to 1943, the statutes designated those persons or classes of persons who could be beneficiaries; only those persons designated by the statutes and the constitution and by-laws of the society could have insurable interest.⁵⁶

55. Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Boice v. Shepard, 78 Kan. 308 (1908); Kessinger v. A. O. U. W. of Kan., 128 Kan. 76 (1929).

56. Gillam v. Dale, 69 Kan. 362 (1904); Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Mod. Woodmen of Amer. v. Comeaux, 79 Kan. 493 (1909); Kloss v. Brotherhood of Amer. Yoemen, 105 Kan. 711 (1919) an uncle was considered a "blood relative"; Hickock v. Johnston, 115 Kan. 845 (1924) foster child never legally adopted was not an "heir"; Coffman v. Sec. Ben. Ass'n., 131 Kan. 328 (1930) brother-in-law disqualified under statutes; Thomas v. Sup. Lodge of Frat. Brotherhood, 131 Kan. 180 (1930) laws of state where society domiciled take precedent over those where member resides, in regard to who may be beneficiary; Jaklevic v. Sup. Lodge of Frat. Brotherhood, 131 Kan. 203 (1930) policy void because beneficiary named therein had no insurable interest.

Neither the society, nor the member, nor the two combined could divert the funds from the classes prescribed.⁵⁷

Under the provisions of the present law, there are no statutory limitations on who may be beneficiary, but designated classes may be named by the various societies.

The word "dependent" appearing either in the statutes or in the constitutions and by-laws of the various societies, has, at different times, been construed to have different meanings. A hotel keeper who took care of the member of a benefit society during the member's last illness could not be a beneficiary as a "dependent."⁵⁸ A divorced wife could not receive the proceeds of the certificate unless she was dependent upon the member at the time of his death.⁵⁹ Even though the society accepts dues and assessments paid by a disqualified beneficiary, it may rule such beneficiary disqualified under its by-laws.⁶⁰

57. Gillam v. Dale, 69 Kan. 362 (1904); Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Mod. Woodmen of Amer. v. Comeaux, 79 Kan. 493 (1909); Lodge v. Order of United Com. Travelers, 120 Kan. 439 (1925); Coffman v. Sec. Ben. Ass'n., 131 Kan. 328 (1930).

58. Mod. Woodmen of Amer., v. Comeaux, 79 Kan. 493 (1909).

59. Johnson v. Grand Lodge of A. O. U. W., 91 Kan. 314 (1914); Cable v. Brotherhood of R. R. Trainmen, 150 Kan. 242 (1939).

60. Gillam v. Dale, 69 Kan. 362 (1904); Mod. Woodmen of Amer. v. Comeaux, 79 Kan. 493 (1909); Rollins v. Ind. Order of Bros. & Sis. of Consolation, 124 Kan. 166 (1927); Coffman v. Sec. Ben. Ass'n., 131 Kan. 328 (1930); Bussey v. Praetorians Life Ins. Co., 138 Kan. 575 (1933).

The question of when the rights become vested in the beneficiary has been before the courts and many decisions have borne out the fact that no beneficiary rights become vested until after the death of the member,⁶¹ and that the only interest a beneficiary has is an expectancy to receive the proceeds of a certificate. Unless the beneficiary outlives the insured, there is no vested interest. However, a few cases have revealed that beneficiaries have received vested interests by an agreement with the insured, and for a consideration, such as the payment of assessments and dues.⁶²

A member's right to designate the payment of the certificate proceeds by will, and the rights of creditors have been ruled upon in many instances. A change of beneficiary

61. Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Beeson v. Brotherhood of Locomotive Firemen & Engineers, 101 Kan. 399 (1917) rights of a beneficiary surviving insured by one hour are as potent as they would be if survival was for years and beneficiary's estate qualified to collect benefits; Kessinger v. A. O. U. W. of Kan., 128 Kan. 76 (1929) wife as beneficiary predeceased insured, no other beneficiary named, administrator of insured's estate could not recover on certificate; Loveless v. Ott, 121 Kan. 728 (1926).

62. Sipe v. Sipe, 103 Kan. 181 (1918); Ferrell v. Stanley, 83 Kan. 491 (1910); Savage v. Mod. Woodmen of Amer., 84 Kan. 63 (1911); Gaston v. Clabough, 106 Kan. 160 (1920); Allen v. Protected Home Circle, 112 Kan. 576 (1923) plaintiff held an assignment for burial expenses.

by will has been held invalid,⁶³ and the benefits do not automatically become a part of the member's estate or liable for his debts.⁶⁴ The funds rendered by a fraternal benefit society are exempt from all taxes and are not subject to garnishee or attachment by a trustee to pay the debts of a certificate holder or beneficiary.⁶⁵

Juvenile insurance provisions, permitting fraternal benefit societies to pay death or annuity benefits on the lives of children, were first included in the Kansas law in 1917.⁶⁶ Children between the ages of two and sixteen could be insured, but the amount of insurance was stated in the statute. At age two a child could be insured for \$34 and the amount could be increased each year, according to the schedule in the statute, to a maximum of \$600, at age

63. Olmstead v. Masonic Mut. Ben. Soc., 37 Kan. 93 (1887); Boice v. Shepard, 78 Kan. 308 (1908); Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Mod. Woodmen of Amer. v. Comeaux, 79 Kan. 493 (1909) member could not bequeath the proceeds of a certificate to pay for his last illness.

64. Mod. Woodmen of Amer. v. Puckett, 77 Kan. 284 (1908); Boice v. Shepard, 78 Kan. 308 (1908); Mod. Woodmen of Amer. v. Comeaux, 79 Kan. 493 (1909); Kennett v. Kidd, 87 Kan. 652 (1912); Kessinger v. A. O. U. W., 128 Kan. 76 (1929); Leavitt v. Internat'l Brotherhood of Boilermakers, et. al., 131 Kan. 495 (1930).

65. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 711; Emmert v. Schmidt, 65 Kan. 31 (1902); Jackson v. K. & L. of Orient, 101 Kan. 383 (1917).

66. Kansas, Session Laws 1917, Ch. 208, Sec. 2.

sixteen. On contracts for insurance on the lives of juveniles, the society was required to maintain a reserve and to keep that reserve separate and distinct from other funds; to report the juvenile department to the insurance commissioner in a separate report; to have at least 500 certificates in force at all times; and when the child reached the age to be admitted to the adult group, he could surrender his certificate for cancellation or for another form of certificate in the adult group.⁶⁷ No person who paid the assessments on a juvenile contract, or who had been named as a beneficiary of the certificate, could acquire any vested interest in it. The juvenile, after he reached the age of sixteen, was free to name his own beneficiary, if he entered the adult group.

The law relating to juvenile contracts was first changed in 1927, and, under the revised law, benefits could be increased according to a new schedule which permitted a juvenile to be insured up to \$50 at age one, and the amount could be increased each year to a maximum of \$1000, at age fifteen.⁶⁸ A few other changes were also made at this time, but the society was still required to maintain at least 500 certificates in force at all times, if they continued to write new business of this type.

67. Loc. cit.

68. Kansas, Session Laws 1927, Ch. 231, Sec. 706.

The amount of a benefit certificate that could be issued under the revised laws of 1929 was changed to read, "benefits shall in no case exceed \$1000," on the lives of juveniles.⁶⁹ Any society issuing juvenile certificates was required to have at least 1000 certificates in force at all times, and the assets of the issuing society could not be less than \$100,000.⁷⁰

Under all of these laws, the rates and reserves were to be figured on the basis of the mortality tables specified in the statutes. In 1943, the juvenile section of the law was rewritten, but no significant changes were made in the points under discussion here.⁷¹

All of the juvenile laws previously referred to permitted the societies to establish juvenile lodges, but initiations could not be required and the juvenile members could have no voice in the management of the society. These requirements are, at the present time, included in the insurance law.⁷²

The Kansas insurance law permits foreign societies, those organized under the laws of other states, to be

69. Kansas, Session Laws 1929, Ch. 198, Sec. 1.

70. Loc. cit.

71. Kansas, Session Laws 1943, Ch. 184, Sec. 2.

72. Loc. cit.

admitted to do business in Kansas. They must, of course, comply with all of the laws relating to fraternal benefit societies, and, in addition, to that section of the insurance code that pertains particularly to them.⁷³ This section provides for the examination of the financial condition of the association, at its own expense, both before and during the time it is authorized to conduct business within the state. Any society neglecting or refusing to file reports, or to meet other requirements, may be excluded from the state. A large per cent of the fraternal insurance in force in Kansas is carried by societies domiciled in other states. At the close of 1946, there were thirty-six foreign societies operating in Kansas, and only five societies that were domiciled in the state.⁷⁴

Provisions for the consolidation, merger, or reinsurance of fraternal benefit societies have been included in the Kansas insurance laws since 1913.⁷⁵ The present law, which is essentially the same as that of 1913, permits consolidation, merger, or reinsurance of such societies if the agreement to unite is ratified

by an affirmative vote of the majority of the members of the supreme legislative body of such

73. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 703.

74. Kansas, Department of Insurance, Seventy-seventh Annual Report, 1946, pp. 238-241.

75. Session Laws 1913, Ch. 210, Secs. 1-2-3.

societies. . .or by any affirmative vote of a majority of the members of the supreme legislative body of such society. . .and by an affirmative vote of a majority of the beneficiary members of such society voting on the proposition. . .⁷⁶

Either of the uniting societies may be incorporated under the laws of another state, but both societies must submit sworn statements of their financial conditions. The contract under which two such societies unite must make provisions

for the continuance of the insurance of all members of both societies: Provided, That the consolidated society or the society taking over the members shall have the same defense to any certificate that the society had which issued the same.⁷⁷

If the plan of operation of the continuing society is different from the discontinuing one, such changes are incorporated in the contract of reinsurance or merger and the members have a right to vote on such changes before the final decision is made. After the affirmative vote has been secured and the insurance commissioner has been satisfied that the union of the societies is just and equitable to the members of each, and that the law has been complied with in all respects, he gives approval and the consolidation becomes effective. The combination of two or more societies into a single one does not prohibit a change in

76. Kansas, Department of Insurance, Insurance Code, 1945, Ch. 40, Sec. 716.

77. Loc. cit.

the rates of assessments, nor does it relieve the continuing society of any obligation created by the discontinuing society.⁷⁸

In 1931, it became lawful for a fraternal benefit society to transform itself into a mutual life insurance company, and provisions for such reorganization were included in the statutes.⁷⁹ By a vote of the members, taken in the manner provided for the ratification of other forms of consolidation, the society may transform itself into a mutual life insurance company. In so doing it becomes subject to all laws applicable to mutual life insurance companies, "but such incorporation shall not affect existing suits, rights, or contracts."⁸⁰ All future business of the organization shall be transacted as a mutual life insurance company, but the members in good standing prior to the reorganization have the right to transfer their contracts to the mutual life plan, or retain them as originally issued. The reorganized company may thus be operating under the laws governing both types of insurance, but, "The various kinds of insurance shall be governed by the laws applicable

78. Cooley v. Gilliam, 80 Kan. 278 (1909); Williams v. Insurance Union, 107 Kan. 214 (1920); Roper v. Columbian Circle, 113 Kan. 280 (1923).

79. Kansas, Session Laws 1931, Ch. 207, Secs. 1-2-3-4-5.

80. Kansas, Session Laws 1931, Ch. 207, Sec. 1.

thereto."⁸¹ The law also provides that the "expense of operating and maintenance of a company so organized shall be apportioned between those holding benefit certificates . . . and those holding policies. . . ." ⁸² All plans for such reorganization must be submitted to and approved by the state insurance commissioner.

From this study of the Kansas laws governing fraternal benefit societies, these observations may be made. (1) Kansas enacted its first fraternal insurance legislation about the same time other states began to do so, or soon after the National Fraternal Congress asked for legislative protection. (2) Legislation has been lenient. It has left the greater portion of the management to the societies and their supreme or grand lodges. (3) It has tried to protect the legitimate societies from illicit competitors, and individual members from unjust treatment in regard to contracts. (4) It has not been unfair with those societies that have been trying diligently to adjust their insurance plans to the more financially sound basis. (5) It has not extracted excessive fees or taxes from these benevolent, non-profit associations. (6) After fifty years of state regulation, fraternal benefit societies still remain exempt from the majority of laws governing other types of life insurance.

81. Kansas, Session Laws 1931, Ch. 207, Sec. 4.

82. Kansas, Session Laws 1931, Ch. 207, Sec. 5.

CHAPTER V

OTHER BENEVOLENT FEATURES

A fraternal benefit society is something more than an insurance organization. It combines social, educational, business, and charitable features. Some of these are conducted on a national basis and others on a local scale. As the definition of such a society indicates, it is "carried on for the sole benefit of its members and their beneficiaries," and the life insurance contract is supplemented by the benevolent spirit of the lodge, ever standing ready for assistance in times of need.

When the fraternal societies were first organized, there were not many outside attractions and the local lodge in the various societies, as they sprang up, was an outlet for many people who wanted something to do outside the home and wanted to mingle with their fellows. For many years, nearly all of the lodge members attended the meetings regularly; many still do today, but other attractions have intervened to some extent. The telephone, the automobile and good highways, the airplane, the radio and motion picture, and the organization of innumerable social and professional clubs throughout the country have provided modern America with opportunities to choose from a host of entertainment possibilities. Nevertheless, it cannot be said that the

lodge meetings have been reduced to insignificance; there are about ninety thousand local lodge units of fraternal benefit societies meeting regularly throughout the country.¹ The early lodges confined their interests to the members of their own ranks, but in later years they have reached outside their groups and participated in various types of community projects. A statement made in 1936, by the Superintendent of Insurance of the State of New York, concerning the value of these lodges, is as follows:

There can be no argument that the individual lodges spread over the country constitute a tremendous socializing force, bringing bodies of persons together for association in some mutual and common interest. They wield a powerful influence in spreading the ideals² of benevolence, religion, patriotism, and education.

At the meeting of the National Fraternal Congress of America, in 1938, the Committee on Lodge Activities reported 449 different types of activities in which these groups participate. These have been classified into eight broad groups, which are summarized below:

(1) Welfare activities, which are commonly observed in the lodges of most societies, include: visiting the sick, flowers to sick members, needy member funds, assisting the

1. Walter Basye, Fraternal Age, XXIV (February, 1948), 10.

2. National Fraternal Congress of America, Fraternal Life Insurance (Indianapolis, Indiana: Insurance Research and Review Service, [c 1942]), p. 36. (Quoting the Seventy-eighth Annual Report, Department of Insurance, New York, 1936, p. 22.)

underprivileged children, summer camps, employment bureaus, health examinations, health centers and clinics.

(2) Civic and patriotic activities, which are "good advertising" for the lodges, include: Red Cross assistance, participation in parades, community fund drives, get-out-the-vote campaigns, flood relief, sponsorship of Boy Scout and Girl Scout troops, and cooperation in other community projects.

(3) Educational activities, the purpose of which is to offer facilities for improving the selling of life insurance and certificate privileges, include: fraternal insurance sales classes, good citizenship and vocational training classes, first aid instruction, public speaking and parliamentary law, parochial school support, libraries and reading rooms.

(4) General entertainments, which are intended to maintain unity and lodge interest, include many kinds of parties, dances, dinners, lectures, and others.

(5) Musical activities include: band and orchestra organization and training, glee clubs, drum corps, and other groups which are desirable for parades, programs, and radio broadcasts.

(6) Religious activities play an important part in many organizations governed by rituals with religious significance. These include memorial services, church fund campaigns, holy communion services and special church services.

(7) Ritualistic activities, which are concerned largely with initiations and rituals of the societies, include: Degree teams, ritualistic contests and pageantry.

(8) Sports and athletic events are of value in promoting comradeship within the lodge, these include all types of sports.³

Very few records have been kept by the local lodges concerning the amount of funds expended for benevolence. During the 1930's, the National Fraternal Congress of America began to encourage the societies to record their services and report to the central committee. The report of the Committee on General Welfare for the year 1931 contained a statement by its chairman, as follows:

It is unfortunate that no record has been kept of the work done by local bodies of the various fraternal societies. I do not suppose there is one that could give you an idea of what has been done for its members. That the sum total would be of such proportions as to astound the world, there is no question.⁴

By 1938 a great amount of information had been collected along this line. It was still far from complete but it indicated a wide scope of service.

The national projects are usually conducted by the grand or supreme lodge and managed from the national headquarters. Funds for their operation are obtained from the

3. Ibid., pp. 42-45.

4. National Fraternal Congress of America, Report of the Committee on General Welfare, 1938, pp. 4-5. (Quotes the 1931 report.)

dues and contributions of the whole membership. Also, many endowments are received from wealthier members. National projects, such as homes for aged members, hospitals and sanitariums for sick members, homes and schools for orphaned children of members, as well as vacation and rest camps are provided. In hundreds of cities, medical examinations, hospitalization, and visiting nurse services are furnished. Many societies, that have not established and supported their own homes or institutions, have relief funds, or medical and hospital funds, from which they make cash donations to worthy members. A few societies make cash donations to the aged and sick of their group to provide care and lodging in private homes. The benevolent services described above are carried on by the fraternal benefit societies which are members of the National Fraternal Congress of America,⁵ and they are supplementary to the various cash insurance plans.

One group estimates that the cost of the operation of its tuberculosis sanitorium, "which averages approximately \$400,000 annually, is paid out of the general fund of the Society, each member contributing for Sanitorium purposes not to exceed 5 cents per month,"⁶ This sanitorium has been maintained since 1909.

5. Ibid., pp. 6-48.

6. Ibid., p. 43.

Again, in 1948, the General Welfare Committee of the National Fraternal Congress continued its plea to have more nearly complete surveys made each year to determine the monetary value of the work of local lodges and that administered by the national headquarters.⁷ The Committee said:

It is important to ascertain yearly the financial outlay of fraternal benefit societies in charitable, patriotic, and educational work within and outside their memberships. . . The accumulation of these statistics year after year will be invaluable.⁸

Every service rendered by such a group lessens the burdens of other organizations interested in public relief, charity, and general welfare.

The fraternal benefit system must not be confused with other fraternities and brotherhoods. Many organizations maintain lodges and carry on such benevolent works as have been described here; however, they are not fraternal benefit societies with cash insurance features. The incorporation of a life insurance contract with the benevolent and charitable activities places these specific societies in a different classification and makes them subject to the state insurance laws provided for their regulation. Other groups are merely fraternities, or associations, carried on principally for social and benevolent purposes.

7. "Benevolence Survey Proposed for Next Year," Fraternal Age, XXV (October, 1948), 19.

8. Loc. cit.

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